

## Message Text

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ACTION L-03

INFO OCT-01 ADP-00 AF-10 ARA-16 EA-11 EUR-25 NEA-10 RSC-01

IO-13 COA-02 EB-11 OIC-04 CIAE-00 DODE-00 PM-07 H-03

INR-10 NSAE-00 NSC-10 PA-03 PRS-01 SS-15 USIA-15

ACDA-19 COME-00 DOTE-00 INT-08 NSF-04 OMB-01 TRSE-00

SCI-06 CEQ-02 EPA-04 FMC-04 CG-00 RSR-01 /220 W

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R 310739Z JUL 73

FM USMISSION GENEVA

TO SECSTATE WASHDC 864

INFO USUN NEWYORK 9390

AMEMBASSY PARIS

AMEMBASSY LIMA

AMEMBASSY RIODE JANERIO

AMEMBASSY ISLAMABAD

AMEMBASSY CARACAS

AMEMBASSY LONDON

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E.O. 11652: N/A

TAGS: PROB, UN

SUBJ: LOS: SEABEDS COMMITTEE: SUBCOMMITTEE III JULY 27, 1973

REF: GENEVA 3894

SUMMARY. PRC AND PERU INTRODUCED WORKING PAPERS ON SCIENTIFIC RESEARCH. NORWAY, FRANCE AND PERU INTRODUCED WORKING PAPERS OR DRAFT ARTICLES ON MARINE POLLUTION. PAKISTAN AND VENEZUELA ADDRESSED THE TRANSFER OF TECHNOLOGY. CHILE ADDRESSED ISSUE OF MARINE POLLUTION AND THE RELATIONSHIP OF IMCO TO LOS.

1. PRC INTRODUCED WORKING PAPER ON MARINE SCIENTIFIC RESEARCH (A/AC 138/SCIII/L-42 - POUCHED SEPARATELY). RESEARCH CONDUCTED WITHIN NATIONAL JURISDICTION REQUIRES PRIOR CONSENT OF UNCLASSIFIED

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COASTAL STATE AND COMPLIANCE WITH ITS LAWS AND REGULATIONS. RE-

SEARCH WITHIN THE INTERNATIONAL SEA AREA SHALL BE GOVERNED BY THE INTERNATIONAL REGIME AND MACHINERY. THE PURPOSE OF THESE PROVISIONS IS NOT TO RESTRICT RESEARCH BUT TO PREVENT IT FROM BEING MONOPOLIZED BY THE SUPERPOWERS.

2. NORWAY INTRODUCED A WORKING PAPER CONTAINING DRAFT ARTICLES ON THE PROTECTION OF THE MARINE ENVIRONMENT AGAINST POLLUTION (A/AC138/SCIII/L-43 - POUCHED SEPARATELY). REP DESCRIBED ARTICLES (SEE REFTEL). THE PURPOSE OF THE ARTICLES WAS TO BALANCE THE ENVIRONMENTAL AND NAVIGATIONAL NEEDS. PRECISE RULES ARE NEEDED TO DEFINE THE RIGHTS AND DUTIES OF COASTAL STATES AND THEY OPPOSE GENERAL RULES ESTABLISHED BY THE COASTAL STATE GIVING THEMSELVES RIGHTS TO TAKE POLLUTION MEASURES IN THE ECONOMIC ZONE.

3. FRANCE INTRODUCED DRAFT ARTICLES CONCERNING THE RIGHTS EXERCISABLE BY COASTAL STATES FOR THE PURPOSE OF PREVENTING MARINE POLLUTION (A/AC 138/SCIII/L-46 - POUCHED SEPARATELY). THE ARTICLES DEAL ONLY WITH THE PREVENT OF POLLUTION AND NOT IN REPAIRING THE DAMAGE AND STATE RESPONSIBILITY. WHILE SPEAKING FAVORABLY OF THE WORK OF IMCO HE NOTED THAT THIS SUBJECT WAS WITHIN THE COMPETENCE OF THE LAW OF THE SEA AND IN THIS REGARD NOTED THAT THEIR ARTICLES APPLY TO BOTH AIRCRAFT AND SHIPS. THE ARTICLES ARE LIMITED TO POLLUTION RESULTING FROM DISCHARGES IN CONTRAVENTION OF THE 1954 CONVENTION FOR THE PREVENTION OF POLLUTION OF THE SEA BY OIL AND THE 1973 CONVENTION BEING PREPARED BY IMCO AND DUMPING IN CONTRAVENTION OF THE LONDON DUMPING CONVENTION. THE ARTICLES ARE SILENT ON EXPLORATION AND EXPLOITATION ACTIVITIES ON THE SEABED SINCE THIS IS COVERED IN THE 1958 CONTINENTAL SHELF CONVENTION. REP STATED THAT THE COASTAL STATE MAY HAVE TO TAKE ACTION BEYOND ITS AREA OF SOVEREIGNTY AS AN EXCEPTION TO THE BASIC RULE OF FLAG STATE JURISDICTION. THE COASTAL STATE MAY BE UNPROTECTED IF THE FLAG STATE IS "NEGLIGENT". THE REGULATIONS THAT ARE ENFORCEABLE BY COASTAL STATES MUST BE DRAWN UP INTERNATIONALLY. WITH RESPECT TO ENFORCEMENT IN THE ZONE (LIMIT IS BLANK) THE COASTAL STATE HAS TWO RIGHTS: (I) STOPPING AND BOARDING THE VESSEL IF THERE IS SERIOUS GROUNDS FOR BELIEVING THERE IS A VIOLATION IN ORDER TO INVESTIGATE; (II) INSTITUTING PROCEEDINGS IF THE FLAG STATE HAS NOT MANIFESTED ITS INTENTION TO TAKE PROCEEDINGS OR WHERE THE FLAG STATE

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IS NOT A PARTY TO THE 1973 CONVENTION. THE ARTICLES DRAWN UP BY THIS COMMITTEE SHOULD BE OF A GENERAL NATURE.

4. PERU INTRODUCED A WORKING PAPER ON THE PRESERVATION OF THE MARINE ENVIRONMENT (A/AC 138/SCIII/ L-47 - POUCHED SEPARATELY), WHICH WAS CO-SPONSORED BY EQUADOR, EL SALVADOR AND URUGUAY. PARA 8 GIVES THE COASTAL STATE THE RIGHT TO ENACT PROVISIONS TO PROTECT THE MARINE ENVIRONMENT WITHIN THE LIMITS OF ITS SOVEREIGNTY

AND NATIONAL JURISDICTION, TAKING INTO ACCOUNT THE NEEDS OF COOPERATION WITH OTHER STATES AND THE RECOMMENDATIONS OF INTERNATIONAL TECHNICAL BODIES. IF A COASTAL STATE IS CONFRONTED BY A SERIOUS DANGER OF POLLUTION FROM AN INCIDENT IN AREAS BEYOND LIMITS OF ITS SOVEREIGNTY AND NATIONAL JURISDICTION IT MAY TAKE THE MEASURES NECESSARY TO PREVENT, MITIGATE OR ELIMINATE THAT DANGER. AN INTERNATIONAL BAN SHALL BE PLACED ON THE DISCHARGE INTO THE SEA OF MATTER WHOSE TOXIC EFFECTS ON MARINE ENVIRONMENT ARE DULY PROVEN. STATES SHALL APPLY PENALTIES FOR THE DISCHARGE OF WASTE BY THEIR NATIONALS INTO THE INTERNATIONAL SEA AREA OR BY ANY PERSON IN AREAS SUBJECT TO THEIR SOVEREIGNTY AND JURISDICTION.

5. PERU INTRODUCED A PAPER ON SCIENTIFIC RESEARCH WITHIN THE ZONE SUBJECT TO THE SOVEREIGNTY AND JURISDICTION OF THE COASTAL

STATE (A/AC 138/SCIII/L-45 - POUCHED SEPARATELY, CO-SPONSORED BY BRAZIL, EQUADOR, EL SALVADOR AND URUGUAY. THE COASTAL STATE HAS THE RIGHT TO REGULATE SCIENTIFIC RESEARCH WITHIN ITS NATIONAL SOVEREIGNTY AND JURISDICTION. THE COASTAL STATE SHALL PROMOTE RESERACH IN SUCH AN AREA. COASTAL STAE HAS A RIGHT TO PARTICIPATE IN SUCH RESEARCH. THERE SHALL BE NO INTERFERENCE WITH OTHER USES OF THE AREA. RESULTS SHALL BE DISSEMINATED.

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6. BRAZIL ALSO SPOKE ON L-45 AND SAID THAT RESEARCH WAS NOT SUBJECT TO INTERNATIONAL LAW BEYOND THE AREA OF NATIONAL SOVEREIGNTY. FREEDOM OF SCIENTIFIC RESEARCH IS NOT APPLICABLE TO AREAS WITHIN NATIONAL SOVEREIGNTY OR JURISDICTION. IN THE INTERNATIONAL AREA, KNOWLEDGE FROM SCIENTIFIC RESEARCH IS THE COMMON HERITAGE AND SHOULD BE DISSEMINATED TO OTHERS.

7. PAKISTAN SPOKE ON THE TRANSFER OF TECHNOLOGY AND THE PREVENTION OF POLLUTION. THE LDC'S NEED MODERN TECHNOLOGY TO AVOID POLLUTING THE ENVIRONMENT AS THE PREVENTION OF POLLUTION IS THE OBLIGATION OF ALL MANKIND. THE LDC'S CANNOT STOP DEVELOPMENT TO PREVENT POLLUTION AND, THEREFORE, THEY MUST RELY ON THE DEVELOPED COUNTRIES. THE TRANSFER OF TECHNOLOGY IS VERY COSTLY. IN THIS REGARD THE RESEARCH BASE OF THE LDC'S MUST BE STRENGTHENED. IN ADDITION, TECHNICAL ASSISTANCE MUST BE PROVIDED SO THAT THE LDC'S CAN  
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DEVELOP FISHERIES AND OTHER MARINE RESOURCES. THEY AGREE THAT RESEARCH WITHIN NATIONAL JURISDICTION IS SUBJECT TO COASTAL STATE CONSENT AND THEY ALSO AGREE WITH THE STATEMENT OF THE PRC ON SCIENTIFIC RESEARCH.

8. VENEZUELA STATED THAT TECHNOLOGY TRANSFER IS CLOSELY RELATED TO PRESERVATION OF THE MARINE ENVIRONMENT AND THE CONDUCT OF SCIENTIFIC RESEARCH, AND STRESSED THE NEED TO TRAIN LDC NATIONALS, TO EXCHANGE SCIENTISTS AND EXPERTS, TO INCREASE SUPPORT FOR FAO, UNDP, IOC, AND TO PROMOTE COUNTRY-TO-COUNTRY EXCHANGES WHICH CONSIDER LDC PRIORITIES. HE STRESSED THAT THE TRANSFER OF TECHNOLOGY SHOULD COVER MARINE SCIENTIFIC RESEARCH AND QUOTED AMB. MCKERNAN'S RECENT SPEECH ON THE SUBJECT. HE ALSO INDICATED THE INTEREST OF MANY COUNTRIES IN REALIZING THE PROSPECTS IN OCEAN SPACE AND THE NEED FOR MECHANISMS WHICH PERMIT ALL COUNTRIES TO ACQUIRE KNOWLEDGE ABOUT THEIR ADJACENT SEAS. IT IS ALSO IMPORTANT TO CONSIDER WHAT THE AUTHORITY WOULD DO TO PROMOTE THE TRANSFER OF TECHNOLOGY.

9. CHAIRMAN NOTED THAT GENERAL DEBATE WAS NOW COMPLETED ON TRANSFER OF TECHNOLOGY.

10. THE CHAIRMAN OF THE WORKING GROUPS ON MARINE POLLUTION AND SCIENTIFIC RESEARCH REPORTED ON THE WORK PROGRESS OF THEIR RESPECTIVE GROUPS.

11. CHILE NOTED THAT THE WORKING GROUP ON POLLUTION HAS MADE CONSIDERABLE PROGRESS. HE NOTED THAT THE CHAIRMAN OF THE WORKING GROUP REPORTED THAT THE ITEM PRESENTLY BEING CONSIDERED "STANDARDS, JURISDICTION AND ENFORCEMENT", WAS HIGHLY CONTROVERSIAL AND THAT HE WAS NOT PREPARED AT THIS TIME TO REPORT TO THE SUBCOMMITTEE ON THAT ISSUE. CHILEAN REP STATED THAT WE SHOULD LOOK AT FLAG, PORT AND COASTAL STATE RIGHTS AS A WHOLE. INTERNATIONAL STANDARDS ARE CLOSELY RELATED TO NATIONAL STANDARDS. THEREFORE, FIRST WE SHOULD LOOK AT NATIONAL STANDARDS TO BE APPLIED WITHIN NATIONAL JURISDICTION AS STATES MAY NOT BE WILLING TO ACCEPT INTERNATIONAL STANDARDS IN THAT AREA. THEN WE SHOULD CONSIDER INTERNATIONAL STANDARDS IN THAT AREA AND HOW THEY MIGHT BE DRAWN UP. LASTLY, WE SHOULD CONSIDER ENFORCEMENT. HOWEVER, THESE TOPICS SHOULD BE VIEWED AS A WHOLE. IMCO IS LOOKING AT MARINE POLLUTION MORE NARROWLY BUT THE WORK OF IMCO AND UNCLASSIFIED

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LOS MAY OVERLAP. THE SBC SHOULD FORWARD TO THE IMCO CONFERENCE OUR VIEWS ON HOW TO AVOID OVERLAP AND COORDINATE OUR WORK, OTHERWISE IMCO MAY DUPLICATE THE SBC WORK OR WEAKEN THE COMPETENCE OF THE SBC. IMCO'S TECHNICAL COMPETENCE SHOULD WORK TO ALL OUR ADVANTAGES. THE DRAWING UP OF CONVENTIONS IS BEYOND IMCO'S COMPETENCE AND THEIR CONVENTION CAN ONLY BE USED AS A WORKING DOCUMENT IN THE SBC. (CHILE ALSO NOTED THAT THEY HAD NOT RECEIVED AN INVITATION TO THE OCTOBER CONFERENCE AND WONDERED WHO WOULD BE ISSUING THE INVITATIONS AND WHEN).

12. THE CHAIRMAN STATES THAT HE ONLY LET CHILE SPEAK OUT OF COURTESY BECAUSE THE ISSUE OF STANDARDS, ETC. HAS NOT BEEN FULLY DISCUSSED IN THE WORKING GROUP. IT IS ONLY THEN THAT THE SUBCOMMITTEE SHOULD LOOK AT THE MATTER.

13. TANZANIA REQUESTED THE CHAIRMAN TO ASK THE MAIN COMMITTEE TO TRANSMIT THE VIEWS OF THE COMMITTEE ON STANDARDS, ETC. TO THE IMCO CONFERENCE SO THE LATTER COULD TAKE THEM INTO ACCOUNT. THE CHAIRMAN REPLIED THAT IT WAS PREMATURE TO DO SO UNTIL DISCUSSIONS WERE COMPLETED IN THE WG, BUT THAT THE MATTER COULD BE CONSIDERED AT THE END OF THE SESSION. BASSIN

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